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Maine State Prison Management Issues - Organizational Culture and Weaknesses in Reporting Avenues Are Likely Inhibiting Reporting and Action on Employee Concerns, 2009

Maine State Legislature

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FINAL
REPORT



Maine State Prison Management Issues -- Organizational Culture and Weaknesses in Reporting Avenues Are Likely Inhibiting Reporting and Action on Employee Concerns

Report No. SR-MSPMI-09

a report to the
Government Oversight Committee
from the
Office of Program Evaluation & Government Accountability
of the Maine State Legislature

June
2009

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Report Highlights

OPEGA Report No.
SR-MSPMI-09

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Maine State Prison Management Issues Organizational Culture and Weaknesses in Reporting Avenues Are Likely Inhibiting Reporting and Action on Employee Concerns



What questions was this OPEGA review intended to answer?

- What is the likelihood that the culture/environment described in concerns raised through an audit request actually exists?
- Are there potential weaknesses in the avenues employees have available for raising concerns?

What was OPEGA's overall conclusion?

Despite several Department efforts focused on cultural change since 2005, the following elements are still likely present to some degree within the culture at Maine State Prison (MSP). OPEGA's work to date has not assessed the pervasiveness or severity. These elements include:

- Intimidation of, and retaliation against, individuals attempting to raise concerns – or behaviors that staff perceive as intimidation or retaliation.
- Behaviors that staff or prisoners experience or perceive as harassment and discrimination of various forms.
- A distrust and/or lack of respect for management as a whole, or of certain individuals within the chain of command, that appears to be fed, at least in part, by staff perceptions that a strong “good old boy” network exists.
- Reluctance or actual failure to report situations that are personally concerning to staff, appear unethical, or that otherwise expose the State to unnecessary risks and liabilities.

OPEGA also observed potential weaknesses in both formal and informal reporting avenues that may affect staff's willingness to use them, or that may interfere with those concerns getting proper attention and action at the appropriate supervisory level.

What actions has OPEGA suggested?

OPEGA suggested further work be done at MSP to:

- ⇒ Identify changes that need to be made to MSP's organizational culture.
- ⇒ Identify needed improvements to reporting avenues available for staff.
- ⇒ Determine whether staff have experienced or observed situations not previously reported or properly addressed, that management should be aware of and take action on.

Government Oversight Committee Action

On May 8, 2009, the Government Oversight Committee (GOC) reviewed the results of OPEGA's preliminary work as presented in OPEGA's Project Direction Recommendation Statement. Rather than spend additional OPEGA resources at this time, the GOC opted to direct the Department of Corrections to continue the cultural change work it had previously initiated in a more strategic, deliberate, and accelerated fashion. This was with the understanding that the Department's planned efforts will clearly address OPEGA's suggested actions and that there would be specific Legislative oversight of the Department's actions and results. On June 1, 2009 the GOC sent a letter to the Joint Standing Committee on Criminal Justice and Public Safety requesting that it provide the desired oversight, and report back to the GOC and OPEGA by the end of January, 2010.

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FULL REPORT

Maine State Prison Management Issues – Organizational Culture and Weaknesses in Reporting Avenues Are Likely Inhibiting Reporting and Action on Employee Concerns

Purpose

In February 2009, OPEGA received a request for a review involving multiple issues at the Maine State Prison (MSP). Allegations regarding potential misappropriation of State resources and violations of a criminal nature were referred to the State Controller's Internal Audit Division and the Attorney General's Office, respectively, for investigation. Other serious issues raised in the request related to the culture and working environment at the Maine State Prison and the resulting experiences of MSP staff.

On March 27, 2009, OPEGA received approval from the Government Oversight Committee (GOC) to assess whether the concerns expressed were potentially representative of systemic issues at MSP and warranted a more detailed review. Our approach focused on assessing the likelihood that the culture/environment described in the concerns raised actually exists, and whether there appear to be potential weaknesses in the avenues employees have available for raising concerns.

Scope and Methods

OPEGA's preliminary work on this project included:

- conducting interviews with representatives of management, the State's Equal Employment Opportunity Office and Office of Employee Relations, the human resources function within the Department of Administrative and Financial Services (DAFS) Service Center that supports the Department of Corrections (DOC), unions representing MSP employees, consultants engaged by DOC to address issues at MSP and limited other external parties including former employees;
- reviewing documents and performing other research related to DOC and MSP personnel policies and procedures, union agreements, MSP's current operations, MSP's Accreditation from the American Correctional Association, DOC's cultural change initiatives and interventions at MSP, and work done by other state and national entities on various reviews of corrections and correctional institutions;
- analyzing limited data on employee terminations and re-hires at MSP, grievances filed under the union agreements, employee complaints filed with the Maine Human Rights Commission or the courts, and settlement payments; and
- touring the MSP facility.

We did not review specific grievances, complaints or reports filed by individual employees. We also chose not to place employees, or former employees, in uncomfortable situations during our work by requesting their input directly. Thus, we have spoken only with those employees or former employees who have offered their perspectives voluntarily.

Background

New Facility and New Management Models

Significant changes affecting the culture and working environment at MSP in recent years include the move to a new, larger, and differently designed, prison facility in 2002. In conjunction with the move, DOC introduced new models for managing prisoners. The new “direct supervision” model results in increased staff interaction with prisoners. The new “unit management” model pushes decision-making down to the lowest level possible and is intended to result in a more collaborative and less hierarchical environment. The move to the new prison was also closely followed by an unexpected near doubling of the prisoner population from about 400 prisoners to over 800.

Since the move, MSP has experienced chronic problems in recruiting and retaining personnel and attaining a fully staffed status. Management notes that these shortages, coupled with scheduled employees calling in sick, and unpredictable situations with prisoners that require correctional officers to assume special posts (i.e. suicide watches), have resulted in significant overtime for correctional officers including the imposition of mandatory, unscheduled overtime. The officer shortage and required overtime have been continuing complaints of the union.

The Maine State Prison received accreditation from the American Correctional Institution in 2006 and is scheduled to undergo re-accreditation this fall. OPEGA reviewed the Accreditation Standards. The report from the last accreditation audit shows that achieving accreditation requires an extensive effort, focused on prisoner management procedures and protocol.

Management Efforts to Address Cultural Issues

Management acknowledges that implementation of the “unit management” and “direct supervision” models, which have been successfully implemented in other DOC institutions, have posed challenges at MSP – the State’s only maximum security facility. Since mid-2005, DOC management has attempted to address these challenges and others through efforts aimed at producing cultural change, improving leadership and communication, and introducing new techniques for officers to de-escalate situations with prisoners. Several of these efforts have involved bringing in outside expertise and consultants.

In May 2005 and March 2006, MSP worked with an organizational consultant engaged through the National Institute of Corrections to assess the culture at MSP and identify aspects that needed to be addressed. About 130 employees, representing a cross-section of the work force, participated in this effort to varying degrees.

Although some of the other interventions conducted have been successful, i.e. dramatic reductions in the use of the restraint chair for prisoners, management acknowledges the cultural change desired from this particular effort has not yet been achieved. Management believes this is because there has been a lack of sustained focus following up on the initial effort and lack of knowledge regarding how best to build on it. The consultant involved confirmed that the original effort made strides in assessing the culture and identifying what needed to be addressed, but stopped short of developing a strategy and action plan for creating change.

Currently, DOC is receiving assistance with diversity issues at the MSP – including employee trainings – from Noel Bonam of DHHS’ Office of Multicultural Affairs.

Conclusion

Information gathered by OPEGA suggests that, despite past cultural change initiatives, the following elements are likely present to some degree within the culture at MSP. OPEGA’s work to date has not assessed the pervasiveness or severity. These elements include:

- Intimidation of, and retaliation against, individuals attempting to raise concerns – or behaviors that staff perceive as intimidation or retaliation – with these interactions occurring both between supervisors and staff, staff to staff, and supervisors or staff to prisoners. Descriptions of the forms and severity of these behaviors vary from subtle to overt.
- Behaviors that staff or prisoners experience or perceive as harassment and discrimination of various forms with such interactions being between various classifications of individuals. These behaviors may not all fit the criteria for illegal harassment and discrimination but, nonetheless, could be contributing to an uncomfortable work environment for some employees.
- A distrust and/or lack of respect for management as a whole, or of certain individuals within the chain of command. This appears to be fed, at least in part, by staff perceptions that a strong “good old boy” network exists and that managers receive personal benefits that appear unfair to staff.
- Reluctance or actual failure to report situations that are personally concerning to staff, appear unethical, or otherwise expose the State to unnecessary risks and liabilities. This reluctance appears to stem from a fear of retaliation and/or a lack of confidence that management will take appropriate action.

Cultural concerns such as those described at MSP are not uncommon in correctional institutions and other work environments. However, the level of risks and exposures inherent in a maximum security facility make it especially critical that effective avenues for reporting and resolving concerns exist and that any cultural barriers affecting those avenues are addressed.

OPEGA noted that employees do have a number of formal avenues available for reporting various types of concerns. These include an incident reporting process and grievance filings that are described in written policies and procedures. Management also described more informal avenues, such as “open door policies” for the Warden and the Commissioner, that are purportedly available.

However, we observed potential weaknesses in the formal and informal reporting avenues that may affect staff’s willingness to use them – especially given some of the cultural elements described above – or that may interfere with concerns getting proper attention and action at the appropriate supervisory level.

Information gathered by OPEGA suggests that management does take action when serious misconduct has been reported, but our work to date has not assessed the timeliness or appropriateness of those actions.

Recommendation

Assuring that effective avenues for reporting and resolution of concerns exist, and are truly supported by the culture, is critical to reducing the State’s exposure to liabilities and risks inherent in the operation of a maximum security correctional facility. Based on the results of our work, we recommend the following areas be further explored to assure that unacceptable situations experienced or observed by MSP staff will be promptly reported and timely, appropriate action taken.

1. Identify changes that need to be made in the environment/culture at MSP to fully support the following with regard to violations of significant policies and procedures, inappropriate treatment of staff and prisoners and other misconduct regardless of who may be the subject of the charges:
 - prompt reporting;
 - timely, appropriate and consistent response;
 - appropriate, consistent and effective action to resolve the concern.
2. Identify needed improvements to existing avenues available for staff to raise concerns such that:
 - staff can utilize them without intimidation or fear of retribution;
 - there is timely, appropriate and consistent response and resolution; and
 - there is sufficient record of the concern and actions taken to resolve it.

Determine if additional avenues should be established.
3. Determine whether staff have experienced or observed situations not previously reported or properly addressed, or that staff perceive have not been properly addressed, that management should take action on or communicate about.

Options for further exploring these areas are to:

- have OPEGA continue with more detailed work to identify the needed changes with the assistance of a consultant with appropriate correctional and organizational expertise; or
- have DOC continue the cultural change work it has initiated in a more strategic, deliberate, and accelerated fashion with the understanding that these efforts will clearly address the areas OPEGA recommended and that there will be specific Legislative oversight of the Department's actions and results.

In conversations with OPEGA, the DOC Commissioner and Deputy Commissioner for Policy discussed several approaches they would take to improve the culture at MSP. These included requesting additional technical assistance from the National Institute of Corrections to build on the initial training and cultural change effort initiated in 2005; administering an employee assessment of climate survey currently used in other DOC divisions; and introducing a performance based standards measurement process also being used in other facilities that would track some key performance indicators related to the culture. There are also some specific areas they are considering for more focused intervention.

Legislative Actions

On May 8, 2009, the Government Oversight Committee (GOC) reviewed the results of OPEGA's preliminary work and the recommendation on further direction for the project as described above. Rather than spend additional OPEGA resources at this time, the GOC opted to direct the Department of Corrections to continue the cultural change work it had previously initiated and address the areas OPEGA recommended be further explored as part of those efforts.

On June 1, 2009 the GOC sent a letter to the Joint Standing Committee on Criminal Justice and Public Safety (CJPS) requesting that it provide the desired formal oversight and report back to the GOC and OPEGA by the end of January, 2010. Specifically, the GOC asked the CJPS to:

- meet with the DOC Commissioner prior to adjournment of the session to review the Commissioner's action plan;
- establish a schedule and format by which to receive status briefings from the Commissioner during the Legislative session interim; and
- monitor DOC's progress on the action plan and whether those actions are effectively addressing the areas OPEGA noted as needing further exploration.

On June 12, 2009, the CJPS met with the DOC Commissioner, reviewed a draft of the action plan, requested additional details on the individual actions and established a schedule and format for monitoring progress during the Interim.

Agency Response

In accordance with 3 MRSA §996, OPEGA provided the Department of Corrections with an opportunity to submit comments on the draft of this report.

Acknowledgements

OPEGA would like to thank the management and staff of the Department of Corrections, including management at the Maine State Prison, for their cooperation during this brief review. We would also like to thank the management and staff in the following agencies for their assistance in providing information and perspective:

- Department of Administrative and Financial Services' (DAFS) Bureau of Human Resources;
- DAFS Corrections Service Center;
- State Controller's Office; and
- Attorney General's Office.

Finally, we extend our appreciation to the representatives of the Maine State Employees Association and the American Federation of State, County, and Municipal Employees, as well as to current and former Maine State Prison employees, who took the time to share their perspectives with us.

